

***Remarks***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1, 2, 6-13, 17-26, and 30-36 are pending in the application, with claims 1, 13, and 25 being the independent claims. Claims 1, 13, and 25 are sought to be amended. These amendments to claims 1, 13, and 25 should be entered after final as they raise no new issues and pose no new search requirement by the Examiner, and the amendments place the application in condition for allowance. Claims 3-5, 14-16, and 27-29 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Applicant reserves the right to prosecute similar or broader claims, with respect to the cancelled and/or amended claims, in the future. These changes are believed to introduce no new matter, and their entry is respectfully requested.

The claims presented in this Application should be interpreted solely based on the file history of this Application, not the file history of any predecessor or related application. With respect to this application, Applicant hereby rescinds any and all disclaimers of claim scope made in any parent application(s), any predecessor application(s), and any related application(s). The Examiner is advised that any previous disclaimer of claim scope, if any, and any references that allegedly caused any previous disclaimer of claim scope, may need to be revisited. Nor should any previous disclaimer of claim scope, if any, in this Application be read back into any predecessor or related application.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 103***

**Claims 1-2 and 25-26**

Claims 1-2 and 25-26 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over United States Patent Publication No. 2007/0058640 to Bunn et al. (herein "Bunn") in view of United States Patent Publication No. 2002/0136203 to Liva et al. (herein "Liva"). Applicant respectfully traverses the rejection and provides the following arguments to support patentability.

The Office Action dated August 21, 2009 ("Office Action") states that claims 3-5 and 27-29 "are objected to as being dependent upon a rejected base claim, but would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims." (Office Action, p. 16.) To expedite prosecution of this Application, Applicant has amended independent claims 1 and 25 to substantially incorporate the features from dependent claims 3-5 and 27-29, respectively. For example, Applicant has amended independent claim 1 to recite at least the feature of "*[the] at least one proprietary communication parameter including at least one of a group consisting of a modulation rate, base rate, and an alpha value*" as previously recited in dependent claims 3-5. Accordingly, independent claims 1 and 25 are in condition for allowance. Dependent claims 2 and 26 are likewise in condition for allowance for the same reasons as the independent claims from which they respectively

depend and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 1-2 and 25-26 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Claims 6-13, 17-24, and 30-36

Claims 6-13, 17-24, and 30-36 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bunn in view of Liva and in further view of one or more of the following:

United States Publication Patent No. 2005/0025145 to Rakib et al. (herein "Rakib");

United States Publication Patent No. 2007/0076717 to Limb et al. (herein "Limb"); and

United States Publication Patent No. 2004/000863 to Cloonan et al. (herein "Cloonan").

Applicant respectfully traverses the rejection and provides the following arguments to support patentability.

The Office Action states that claims 14-16 "are objected to as being dependent upon a rejected base claim, but would be allowable if written in independent form including all of the limitations of the base claim and any intervening claims." (Office Action, p. 16.) Applicant has amended independent claim 13 to substantially incorporate the features from dependent claims 14-16. For example, Applicant has amended independent claim 13 to recite at least the feature of "*[the] at least one proprietary communication parameter including at least one of a group consisting of a modulation rate, base rate, and an alpha value*" as previously recited in dependent claims 14-16. Accordingly, independent claims 13 is in condition for allowance. Dependent claims 17-

24 are likewise in condition for allowance for the same reasons as the independent claims from which they respectively depend and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 13 and 17-24 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

From the discussion above, independent claims 1 and 25 are in condition for allowance. Dependent claims 6-12 and 30-36 are likewise in condition for allowance for the same reasons as the independent claims from which they respectively depend and further in view of their own respective features. Accordingly, Applicant respectfully requests that the rejection of claims 6-12 and 30-36 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

***Allowable Subject Matter***

Claims 3-5, 14-16, and 27-29

Claims 3-5, 14-16, and 27-29 stand objected to as allegedly being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. To expedite prosecution of this Application, claims 3-5, 14-16, and 27-29 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Applicant contends that the canceling of claims 3-5, 14-16, and 27-29 does not give rise to any implication regarding whether the Applicant agrees with or acquiesces to this objection.

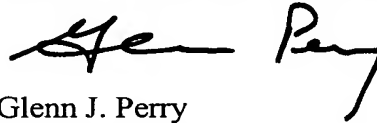
***Conclusion***

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Glenn J. Perry  
Attorney for Applicant  
Registration No. 28,458

Date: 20 Nov. 2009

1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600  
1023389\_1.DOC